

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

E-Recycling of California
31775 Hayman Avenue
Hayward, California 94545

ID No.: CAL 000 276 332

Respondent.

Docket HWCA20071287

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and E-Recycling of California (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent handles, treats and recycles cathode ray tube (CRT) material and universal waste electronic devices (UWEDs) at the following site: 31775 Hayman Avenue, Hayward, California 94545 (Site).

1.3. Inspection. The Department inspected the Site on October 18 and 23, 2006, and May 7, 2007.

1.4. Jurisdiction. Health and Safety Code section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions

except as specifically provided in this Order.

1.6. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.7. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2. The Department alleges the following violations:

2.1. Respondent violated California Code of Regulations, Title 22, section 66273.83, subdivisions (a)(1) and (a) (2), in that on or about October 18 and 23, 2006, Respondent stored CRT glass and CRT materials in Gaylord boxes that showed evidence of damage. According to an inventory report provided by the Respondent, 3,004 and 2,900 Gaylord boxes respectively of CRT materials and CRT glass were stored outside on October 13 and 23, 2006 respectively. In addition, Gaylord boxes containing CRT glass and CRT materials that were stored outside (paved and some on unpaved areas) had obvious signs of moisture causing the boxes to weaken.

2.2. Respondent violated California Code of Regulations, Title 22, section 66273.83, subdivision (d)(17) in that on or about October 18 and 23, 2006, Respondent failed to maintain compliance with location standards and seismic and precipitation design standards requirements by not providing a covered area to store the Gaylord boxes of CRT materials/glass. According to an inventory report provided by the Respondent, 3,004 and 2,900 Gaylord boxes respectively of CRT materials and CRT glass were stored outside on October 13 and 23, 2006 respectively. These Gaylord boxes stored outside were subject to precipitation. All of the Gaylord boxes that contained CRT glass were unlined and some of the Gaylord boxes were partly shrink wrapped and partly covered with a tarp. Gaylord boxes that were partly shrink wrapped had a potential for release of CRT glass.

2.3. Respondent violated California Code of Regulations, Title 22, section 66273.87, subdivisions (a) and (c) in that on or about October 18 and 23, 2006,

Respondent failed to immediately properly cleanup broken CRT glass and contain all releases of CRT materials and residues from CRT materials. Respondent also failed to repackage residues of broken or damaged CRT materials. CRT glass and CRT materials were observed in the parking lot and by the Gaylord containers in the backyard (paved and some on unpaved areas). In addition, Respondent failed to properly cleanup broken CRT glass and pour into lined Gaylord containers as specified in their training plan.

2.4. Respondent violated California Code of Regulations, Title 22, section 66273.85, subdivisions (a) and (b) in that on or about October 18 and 23, 2006, Respondent stored CRT materials for more than one year. According to an inventory report provided by the Respondent, 3,004 and 2,900 Gaylord boxes respectively of CRT materials and CRT glass were stored outside on October 13 and 23, 2006 respectively. Approximately 15 Gaylord boxes with dates over one year were observed and initial dates of accumulation on other Gaylord boxes were not visible from lack of aisle space. In addition, Respondent said that once CRT materials were processed and placed in Gaylord boxes, a new date of accumulation was marked on the label.

2.5. Respondent violated California Code of Regulations, Title 22, section 66273.83, subdivisions (c)(10), (c)(12), and (d)(14) in that on or about October 18 and 23, 2006, Respondent failed to provide safety shoes to CRT materials handlers and employees that were working in the glass breaking activities areas without a HEPA vacuum system, thus could be exposed to lead dust. In addition, CRT handlers were not wearing safety shoes as specified in their training plan.

2.6. Respondent violated California Code of Regulations, Title 22, section 66273.83, subdivision (d)(13) in that on or about October 18, 2006, Respondent failed to ensure that the facility is operated in compliance with all applicable local and state air pollution control laws. Respondent had not contacted the Bay Area Air Quality Management District (BAAQMD) to determine if a permit was required to conduct CRT

glass treatment activities. In addition, a storm water discharge permit had not been obtained from the State Water Resources Control Board (SWRCB).

2.7. Respondent violated California Code of Regulations, Title 22,, section 66273.33, subdivisions (d)(2) and (d)(3)(F)(1)(b) in that on or about February 1, 2006, Respondent failed to submit an annual report for universal waste electronic devices (UWEDs) handled in calendar year 2005 to the Department.

2.8. Respondent violated California Code of Regulations, Title 22, section 66273.8, subdivisions (c)(4) and (d)(6) in that on or about February 1, 2006, Respondent failed to submit an annual report for CRT yoke removal and CRT materials treated for the calendar year 2005 to the Department.

3. SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1. 1. Respondent has corrected the violations set forth in sections 2.1. through 2.5.

3.1.2. Respondent has partially corrected this violation. Within 30 days of the effective date of this Order, Respondent shall maintain compliance with BAAQMD requirements, and shall obtain and submit copies of the permits to DTSC to verify compliance.

3.1. 3. Respondent has corrected the violations set forth in sections 2.7. through 2.8.

3.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order.

Notwithstanding compliance with the terms of this Order, Respondent may be required

to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.8. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total of \$28,000 of which \$21,700 is a penalty and \$6,300 is reimbursement of the Department's costs.

5.2. Respondent's check for \$28,000.00 (penalty and costs) shall be made payable to the Department of Toxic Substances Control due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: October 30, 2007

Original signed by Dennis Kazarian
Dennis Kazarian, Vice President
Respondent

Dennis Kazarian, Vice President
Printed name and Title

Dated: November 8, 2007

Original signed by Maria Soria
Maria Soria, Section Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control